

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HACER DINLER, et al.,

Plaintiffs,

04 Civ 7921 (RJS)(JCF)

-against-

CITY OF NEW YORK, et al.,

Defendants.

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RNC CONSOLIDATED CASES¹,

DECLARATION OF
GERALD S. SMITH

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GERALD S. SMITH, an attorney duly admitted to practice in the United States District Court for the Southern District of New York, declares under penalty of perjury and pursuant to 28 U.S.C. §1746 that the following is true and correct:

¹ This Declaration is submitted in support of Defendants' Motion For Summary Judgment dismissing the false arrest claims in the following cases: *Adams v. City of NY* 05 CV 9484; *Bastidas v. City of NY* 05 CV 7670; *Bell v. City of NY* 05 CV 3705; *Concepcion v. City of New York* 05 CV 8501; *Crotty v. City of NY* 05 CV 7577; *Dinler v. City of NY* 04 CV 7921; *Dudek v. City of NY* 04 CV 10178; *Grosso v. City of New York* 05 CV 5080; *Kennedy v. City of NY* 07 CV 7678; *Macnamara v. City of New York* 04 CV 9216; *Moran v. City of New York* 05 CV 1571; *Rigby v. City of New York* 07 CV 7751; *Stark v. City of New York* 05 CV 7579; *Starin v. City of New York* 05 CV 5152; *Tikkun v. City of New York* 05 CV 9901.

1. I am a Senior Counsel in the office of MICHAEL A. CARDOZO, Corporation Counsel of the City of New York, attorney for Defendants.

2. I am familiar with the facts and circumstances stated herein based upon personal knowledge, the books and records of the City of New York, and conversations with its agents and employees.

3. I submit this declaration in support of Defendants' Motion For Summary Judgment in the cases referenced in Footnote 1.

4. The following exhibits, cited in support of Defendants' Motion For Summary Judgment, are attached hereto²:

- Annexed hereto as **Exhibits A and B** are true and accurate copies of excerpts from the depositions of James Essig.
- Annexed hereto as **Exhibit C** are true and correct copies of excerpts from the deposition of Gerald Dieckmann.
- Annexed hereto as **Exhibit D** is a true and accurate copy of the front of a compact disc. A hard copy of the compact disc has been provided to the court. This compact disc is a compilation of video footage produced by plaintiffs in the consolidated RNC actions and/or obtained by subpoena from third-party I-Witness Video.² This

¹ Pursuant to the Court's Order dated Sept. 30, 2011 and the Court's instruction to limit exhibits to 100 and no more than 30 pages per exhibit across all 3 motions, attached hereto are selected excerpts from the documents cited in support of Defendants' 56.1 Statement of Undisputed Facts.

² This video compilation is comprised of 6 different chapters, with subdividers between each clip indicating what videos the clips were extracted from. Chapter 1 contains a video clip from Plaintiff's #78 (3:39 to 4:15). Chapter 2 contains three video clips: 1) a clip from Plaintiff's #78 (5:00 to 7:15), 2) a clip from Plaintiff's #76 (00:55 to 2:53), and 3) IWV #1051 (7:15 to 9:00). Chapter 3 contains three video clips: 1) a clip from Plaintiff's #79 (34:13 to 35:48), 2) a clip from Plaintiff's #76 (2:50 to 3:25), and 3) IWV #1051 (8:45 to 10:00). Chapter 4 contains two

compilation is being produced on a compact disc (CD); the files can be played on any computer running Microsoft through Windows Media Player. Attached is also a letter from Humberto Rosero, Multimedia Producer at IDC (International Duplication Centre, Inc.) who produced this video compilation.

- Annexed hereto as **Exhibit E** are true and accurate copies of the documents cited in support of Paragraph 14 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit F** are true and accurate copies of the documents cited in support of Paragraph 15 and Paragraph 15 of Defendants' 56.1 Statement
- Annexed hereto as **Exhibit G** are true and accurate copies of the documents cited in support of Paragraph 16 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit H** are true and accurate copies of the documents cited in support of Paragraph 20 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit I** are true and accurate copies of the documents cited in support of Paragraph 21 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit J** are true and accurate copies of the documents cited in support of Paragraph 23 of Defendants' 56.1 Statement.

clips: 1) a clip from Plaintiff's #76 (3:12 – 5:00), and 2) a clip from IWV #1051 (9:25 to 10:50). Chapter 5 contains four clips: 1) a clip from Plaintiff's #18 from Hall chapter (5:34-10:10), 2) a clip from IWV #1051 (10:50 to 15:00), 3) a clip from CCRB #3 (32:00 to 37:45), and 4) IWV #1139 (12:35 – 14:50). Finally, Chapter 6 also contains 4 clips: 1) a clip from IWV #1051 (11:40 to 11:55), 2) a clip from IWV #719 (30:55 36:15), 3) a clip from IWV #1118 (5:05 to 8:01), and 4) a clip from Plaintiff's #114 (1:45 to 4:30).

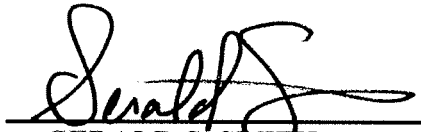
All these videos have been produced to Defendants by plaintiffs in the consolidated RNC actions, and/or obtained by subpoena from third-party I-Witness Video.

In addition to this video compilation, Defendants have available full copies of all of the videos cited in Defendants' 56.1 Statement, and will provide them upon request.

- Annexed hereto as **Exhibit K** are true and accurate copies of the documents cited in support of Paragraph 24 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibits L and M** are true and accurate copies of the documents cited in support of Paragraph 26 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit N** are true and accurate copies of the documents cited in support of Paragraph 27 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit O** are true and accurate copies of the documents cited in support of Paragraph 28 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit P** are true and accurate copies of the documents cited in support of Paragraph 30 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit Q** are true and accurate copies of the documents cited in support of Paragraph 33 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit R** are true and accurate copies of the documents cited in support of Paragraph 34 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibits S and T** are true and accurate copies of the documents cited in support of Paragraph 38 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit U** are true and accurate copies of the documents cited in support of Paragraph 43 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit V** are true and accurate copies of the documents cited in support of Paragraph 44 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit W** are true and accurate copies of the documents cited in support of Paragraph 46 of Defendants' 56.1 Statement.

- Annexed hereto as **Exhibit X** are true and accurate copies of the documents cited in support of Paragraph 47 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit Y** are true and accurate copies of the documents cited in support of Paragraph 50 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit Z** are true and accurate copies of the documents cited in support of Paragraph 51 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit AA** are true and accurate copies of the documents cited in support of Paragraph 56 of Defendants' 56.1 Statement.
- Annexed hereto as **Exhibit BB** are true and accurate copies of the documents cited in support of Paragraph 57 of Defendants' 56.1 Statement.

Dated: New York, New York
October 3, 2011


GERALD S. SMITH